



Reprinted
February 5, 2004

HOUSE BILL No. 1296

DIGEST OF HB 1296 (Updated February 4, 2004 9:41 pm - DI 51)

Citations Affected: IC 6-1.1; IC 12-26; IC 12-29; IC 35-36; noncode.

Synopsis: Mental health. Provides that a third party who contracts with the division of mental health and addiction (division) may: (1) provide competency restoration services; and (2) initiate a regular commitment proceeding. Provides that a psychologist or psychiatrist appointed in a competency hearing may not be an employee or a contractor at a state institution. Allows the department of mental health to provide competency restoration services to an inmate at a department of correction facility. Separates the laws governing the funding of community mental health centers from the laws governing the funding of community mental retardation and other developmental disabilities centers. Changes the formula under which counties fund community mental health centers located outside Marion County. Repeals a provision that duplicates other provisions added to the same chapter.

Effective: December 12, 2003 (retroactive); January 1, 2004 (retroactive); upon passage; July 1, 2004.

Klinker, Espich, Austin, Scholer

January 15, 2004, read first time and referred to Committee on Ways and Means.
February 2, 2004, amended, reported — Do Pass.
February 4, 2004, read second time, amended, ordered engrossed.

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HB 1296—LS 7343/DI 51+



Reprinted
February 5, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1296

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-18-12, AS ADDED BY P.L.1-2004,
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 DECEMBER 12, 2003 (RETROACTIVE)]: Sec. 12. (a) For purposes
4 of this section, "maximum rate" refers to the maximum:
5 (1) property tax rate or rates; or
6 (2) special benefits tax rate or rates;
7 referred to in the statutes listed in subsection (d).
8 (b) The maximum rate for taxes first due and payable after 2003 is
9 the maximum rate that would have been determined under subsection
10 (e) for taxes first due and payable in 2003 if subsection (e) had applied
11 for taxes first due and payable in 2003.
12 (c) The maximum rate must be adjusted:
13 (1) each time an annual adjustment of the assessed value of real
14 property takes effect under IC 6-1.1-4-4.5; and
15 (2) each time a general reassessment of real property takes effect
16 under IC 6-1.1-4-4.
17 (d) The statutes to which subsection (a) refers are:

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1 (1) IC 8-10-5-17;
 2 (2) IC 8-22-3-11;
 3 (3) IC 8-22-3-25;
 4 (4) IC 12-29-1-1;
 5 (5) IC 12-29-1-2;
 6 (6) IC 12-29-1-3;
 7 ~~(7) IC 12-29-2-13;~~
 8 **(7) IC 12-29-2-1.9;**
 9 (8) IC 12-29-3-6;
 10 (9) IC 13-21-3-12;
 11 (10) IC 13-21-3-15;
 12 (11) IC 14-27-6-30;
 13 (12) IC 14-33-7-3;
 14 (13) IC 14-33-21-5;
 15 (14) IC 15-1-6-2;
 16 (15) IC 15-1-8-1;
 17 (16) IC 15-1-8-2;
 18 (17) IC 16-20-2-18;
 19 (18) IC 16-20-4-27;
 20 (19) IC 16-20-7-2;
 21 (20) IC 16-23-1-29;
 22 (21) IC 16-23-3-6;
 23 (22) IC 16-23-4-2;
 24 (23) IC 16-23-5-6;
 25 (24) IC 16-23-7-2;
 26 (25) IC 16-23-8-2;
 27 (26) IC 16-23-9-2;
 28 (27) IC 16-41-15-5;
 29 (28) IC 16-41-33-4;
 30 (29) IC 20-5-17.5-2;
 31 (30) IC 20-5-17.5-3;
 32 (31) IC 20-5-37-4;
 33 (32) IC 20-14-7-5.1;
 34 (33) IC 20-14-7-6;
 35 (34) IC 20-14-13-12;
 36 (35) IC 21-1-11-3;
 37 (36) IC 21-2-17-2;
 38 (37) IC 23-13-17-1;
 39 (38) IC 23-14-66-2;
 40 (39) IC 23-14-67-3;
 41 (40) IC 36-7-13-4;
 42 (41) IC 36-7-14-28;

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1 (42) IC 36-7-15.1-16;
 2 (43) IC 36-8-19-8.5;
 3 (44) IC 36-9-6.1-2;
 4 (45) IC 36-9-17.5-4;
 5 (46) IC 36-9-27-73;
 6 (47) IC 36-9-29-31;
 7 (48) IC 36-9-29.1-15;
 8 (49) IC 36-10-6-2;
 9 (50) IC 36-10-7-7;
 10 (51) IC 36-10-7-8;
 11 (52) IC 36-10-7.5-19; and
 12 (53) any statute enacted after December 31, 2003, that:
 13 (A) establishes a maximum rate for any part of the:
 14 (i) property taxes; or
 15 (ii) special benefits taxes;
 16 imposed by a political subdivision; and
 17 (B) does not exempt the maximum rate from the adjustment
 18 under this section.
 19 (e) The new maximum rate under a statute listed in subsection (d)
 20 is the tax rate determined under STEP SEVEN of the following STEPS:
 21 STEP ONE: Determine the maximum rate for the political
 22 subdivision levying a property tax or special benefits tax under
 23 the statute for the year preceding the year in which the annual
 24 adjustment or general reassessment takes effect.
 25 STEP TWO: Determine the actual percentage increase (rounded
 26 to the nearest one-hundredth percent (0.01%)) in the assessed
 27 value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the
 28 taxable property from the year preceding the year the annual
 29 adjustment or general reassessment takes effect to the year that
 30 the annual adjustment or general reassessment takes effect.
 31 STEP THREE: Determine the three (3) calendar years that
 32 immediately precede the ensuing calendar year and in which a
 33 statewide general reassessment of real property does not first take
 34 effect.
 35 STEP FOUR: Compute separately, for each of the calendar years
 36 determined in STEP THREE, the actual percentage increase
 37 (rounded to the nearest one-hundredth percent (0.01%)) in the
 38 assessed value (before the adjustment, if any, under
 39 IC 6-1.1-4-4.5) of the taxable property from the preceding year.
 40 STEP FIVE: Divide the sum of the three (3) quotients computed
 41 in STEP FOUR by three (3).
 42 STEP SIX: Determine the greater of the following:

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(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 2. IC 6-1.1-18.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 10. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit to be used to fund:

(1) community mental health centers under ~~IC 12-29-2-1~~ **IC 12-29-2-1.6, IC 12-29-2-13, and IC 12-29-2-2** through IC 12-29-2-6; or

(2) community mental retardation and other developmental disabilities centers under IC 12-29-1-1;

to the extent that those property taxes are attributable to any increase in the assessed value of the civil taxing unit's taxable property caused by a general reassessment of real property that took effect after February 28, 1979.

(b) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).

SECTION 3. IC 12-26-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) This section does not apply to the commitment of an individual if the individual has previously been committed under IC 12-26-6.

(b) A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness may be begun by filing with a court having jurisdiction a written petition by any of the following:

- (1) A health officer.
- (2) A police officer.
- (3) A friend of the individual.
- (4) A relative of the individual.
- (5) The spouse of the individual.
- (6) A guardian of the individual.

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(7) The superintendent of a facility where the individual is present.

(8) A prosecuting attorney in accordance with IC 35-36-2-4.

(9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.

(10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.

SECTION 4. IC 12-29-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to ~~the following~~:

~~(1) A community mental health center that is located or will be located in the county.~~

~~(2) a community mental retardation and other developmental disabilities center that is located or will be located in the county.~~

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 5. IC 12-29-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 2. (a) ~~If a community mental health center or a community mental retardation and other developmental disabilities center is organized to provide services to at least two (2) counties, the county executive of each county may authorize the furnishing of financial assistance for the purposes described in section 1(b) of this chapter.~~

(b) Upon the request of the county executive of the county, the county fiscal body of each county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriation of each county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the

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SECTION 6. IC 12-29-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
 Sec. 3. (a) The county executive of each county whose residents may receive services from a ~~community mental health center~~ or a community mental retardation and other developmental disabilities center may authorize the furnishing of a share of financial assistance for the purposes described in section 1(b) of this chapter if the following conditions are met:

(1) The facilities for the center are located in a state adjacent to Indiana.

(2) The center is organized to provide services to Indiana residents.

(b) Upon the request of the county executive of a county, the county fiscal body of the county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriations of the county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 7. IC 12-29-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
 Sec. 4. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house ~~the following~~:

~~(1) A community mental health center;~~

~~(2) a community mental retardation and other developmental disabilities center.~~

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 8. IC 12-29-1-7, AS AMENDED BY P.L.215-2001, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

~~(1) the division of mental health and addiction; for a community mental health center;~~

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~~(2)~~ (1) the division of disability, aging, and rehabilitative services, for a community mental retardation and other developmental disabilities center; and

~~(3)~~ (2) the president of the board of directors of each center; the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

~~A county making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification:~~

(c) Payments by the county fiscal body

~~(1) must be in the amounts:~~

~~(A) determined by IC 12-29-2-1 through IC 12-29-2-6; and~~

~~(B) authorized by section 1 of this chapter; and~~

~~(2) are in place of grants from agencies supported within the county solely by county tax money.~~

SECTION 9. IC 12-29-2-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance to a community mental health center that is located or will be located:

(1) in the county;

(2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or

(3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a community mental health center.

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(2) Operating a community mental health center.

SECTION 10. IC 12-29-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 1.5. (a) This section applies to a county other than Marion County.**

(b) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1.2(b) of this chapter. If a community mental health center is organized to serve more than one (1) county, upon request of the county executive each county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1.2(b) of this chapter.

(c) The appropriation from a county other than Marion County under subsection (b) may not exceed the following:

(1) For 2004, the amount that would have been raised by an annual tax rate of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county in 2002.

(2) For 2005 and each year thereafter, the result equal to:

(A) the maximum amount determined under this section for the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the product of seven tenths (0.7) multiplied by the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

SECTION 11. IC 12-29-2-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 1.6. (a) This section applies to a county other than Marion County.**

(b) A county shall fund the operation of community mental health centers in the amount determined under subsection (c) unless a lower tax rate will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

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(4) If the partial population of the county is served by more than one (1) center.

(c) The amount to be used in subsection (b) is the following:

(1) For 2004, the amount that would have been raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county in 2002.

(2) For 2005 and each year thereafter, the result equal to:

(A) the maximum amount determined under this section for the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the product of seven tenths (0.7) multiplied by the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

SECTION 12. IC 12-29-2-1.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 1.9. (a) This section applies only to Marion County.

(b) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1.2(b) of this chapter. If a community mental health center is organized to serve more than one (1) county, upon request of the county executive each county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1.2(b) of this chapter.

(c) The appropriation from Marion County under subsection (b) may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 13. IC 12-29-2-2, AS AMENDED BY P.L.1-2004, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) This section applies only to Marion County.

(b) Subject to ~~subsections (b), subsection (c), and (d)~~, a county shall fund the operation of community mental health centers in an amount not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county, unless a lower tax rate will be adequate to fulfill the county's financial obligations under

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1 this chapter in any of the following situations:

2 (1) If the total population of the county is served by one (1)
3 center.

4 (2) If the total population of the county is served by more than one
5 (1) center.

6 (3) If the partial population of the county is served by one (1)
7 center.

8 (4) If the partial population of the county is served by more than
9 one (1) center.

10 ~~(b) This subsection applies only to a property tax that is imposed in~~
11 ~~a county containing a consolidated city.~~ (c) The tax rate permitted
12 under subsection ~~(a)~~ (b) for taxes first due and payable after 1995 is the
13 tax rate permitted under subsection ~~(a)~~ (b) as adjusted under this
14 subsection. For each year in which an annual adjustment of the
15 assessed value of real property will take effect under IC 6-1.1-4-4.5 or
16 a general reassessment of property will take effect, the department of
17 local government finance shall compute the maximum rate permitted
18 under subsection (a) as follows:

19 STEP ONE: Determine the maximum rate for the year preceding
20 the year in which the annual adjustment or general reassessment
21 takes effect.

22 STEP TWO: Determine the actual percentage increase (rounded
23 to the nearest one-hundredth percent (0.01%)) in the assessed
24 value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the
25 taxable property from the year preceding the year the annual
26 adjustment or general reassessment takes effect to the year that
27 the annual adjustment or general reassessment is effective.

28 STEP THREE: Determine the three (3) calendar years that
29 immediately precede the ensuing calendar year and in which a
30 statewide general reassessment of real property does not first
31 become effective.

32 STEP FOUR: Compute separately, for each of the calendar years
33 determined in STEP THREE, the actual percentage increase
34 (rounded to the nearest one-hundredth percent (0.01%)) in the
35 assessed value (before the adjustment, if any, under
36 IC 6-1.1-4-4.5) of the taxable property from the preceding year.

37 STEP FIVE: Divide the sum of the three (3) quotients computed
38 in STEP FOUR by three (3).

39 STEP SIX: Determine the greater of the following:

40 (A) Zero (0).

41 (B) The result of the STEP TWO percentage minus the STEP
42 FIVE percentage.

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STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.

(c) With respect to a county to which subsection (b) does not apply, the maximum tax rate permitted under subsection (a) for taxes first due and payable in calendar year 2004 and calendar year 2005 is the maximum tax rate that would have been determined under subsection (d) for taxes first due and payable in 2003 if subsection (d) had applied to the county for taxes first due and payable in 2003.

(d) This subsection applies only to a county to which subsection (b) does not apply. The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 2005 is the tax rate permitted under subsection (c) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined under STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed under STEP FOUR by three (3).

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STEP SIX: Determine the greater of the following:

(A) Zero (0);

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage;

STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.

SECTION 14. IC 12-29-2-3, AS AMENDED BY P.L.79-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3. In situations described in section ~~2(a)(1)~~ **1.6(b)(1)**, **1.6(b)(3)**, **2(b)(1)**, or ~~2(a)(3)~~ **2(b)(3)** of this chapter, the county's maximum appropriation for part of the total operating budget of the center is determined as follows:

STEP ONE: Divide the total county population by the population of the county residing in the primary service area of the community mental health center that is certified by the division of mental health and addiction to serve the county.

STEP TWO: Multiply the amount determined in STEP ONE by the total operating budget of the center after the operating budget of the center is reduced by the following anticipated amounts:

(A) Gifts, except bequests.

(B) Merchandise.

(C) Fees.

(D) Federal grants for direct service, except research and demonstration grants.

SECTION 15. IC 12-29-2-4, AS AMENDED BY P.L.79-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 4. (a) Except as provided in subsection (b), in situations described in section ~~2(a)(2)~~ **1.6(b)(2)**, **1.6(b)(4)**, **2(b)(2)**, or ~~2(a)(4)~~ **2(b)(4)** of this chapter, the county's maximum appropriation for part of the total operating budget of the centers is determined in the same manner as in situations described in section ~~2(a)(1)~~ **1.6(b)(1)**, **1.6(b)(3)**, **2(b)(1)**, or ~~2(a)(3)~~ **2(b)(3)** of this chapter.

(b) The amount derived from the calculation under subsection (a) represents the combined maximum appropriation to all centers serving the particular county. Except for a **Marion County**, ~~containing a consolidated city~~, the allotment to each center shall be determined in

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the following manner:

(1) To determine the allotment to each center serving the total population of the county under the situation described in section ~~2(a)(2)~~ **1.6(b)(2) or 2(b)(2)** of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the total population of the county.

(2) To determine the allotment to each center in the situation described in section ~~2(a)(4)~~ **1.6(b)(4) or 2(b)(4)** of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the population of the county served by all centers.

SECTION 16. IC 12-29-2-5, AS AMENDED BY P.L.1-2004, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 5. (a) The maximum appropriation determined under section 3 or 4 of this chapter represents the county's absolute proportional share of each center's total operating budget.

(b) If the proportional share is less than the amount of property taxes raised under the tax rate required under section **1.6 or 2** of this chapter, the county shall appropriate only the maximum appropriation amount.

(c) If the proportional share is more than the amount of property taxes raised under the tax rate required under section **1.6 or 2** of this chapter, the county

~~(1)~~ shall appropriate that amount and

~~(2) may appropriate an additional amount up to an amount that would equal the amount of property taxes raised by a tax rate of three and one-third cents (\$0.03 1/3); allowed under section 1.5 or 1.9 of this chapter for that county.~~

SECTION 17. IC 12-29-2-6 IS REPEALED [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)].

SECTION 18. IC 12-29-2-13, AS AMENDED BY P.L.215-2001, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 13. (a) This section applies to ~~a Lake County. having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).~~

(b) In addition to any other appropriation under this article, a county

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annually may fund each center serving the county from the county's general fund in an amount not exceeding the **following**:

(1) For 2004, the amount that would be raised by a tax rate of one cent (\$0.01) on each one hundred dollars (\$100) of taxable property within the county in 2002.

(2) For 2005 and each year thereafter, the result equal to:

(A) the maximum amount determined under this section for the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the product of seven tenths (0.7) multiplied by the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health and addiction.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health and addiction for a community mental health center.

SECTION 19. IC 12-29-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 17. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house a community mental health center.**

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 20. IC 12-29-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 18.** All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

- (1) The filing of a petition requesting the issuance of bonds.
- (2) The giving of notice of the following:
 - (A) The filing of the petition requesting the issuance of the bonds.
 - (B) The determination to issue bonds.
 - (C) A hearing on the appropriation of the proceeds of the bonds.
- (3) The right of taxpayers to appear and be heard on the proposed appropriation.
- (4) The approval of the appropriation by the department of local government finance.
- (5) The right of taxpayers to remonstrate against the issuance of bonds.

SECTION 21. IC 12-29-2-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 19.** If bonds are issued under this chapter:

- (1) the building that is constructed, equipped, or improved with proceeds of the bonds is:
 - (A) the property of the county issuing the bonds; or
 - (B) the joint property of the counties involved, if the bonds are issued by at least two (2) counties; and
- (2) the tax limitations in this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

SECTION 22. IC 12-29-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 20. (a)** On the first Monday in October, the county auditor shall certify to:

- (1) the division of mental health and addiction, for a community mental health center; and
- (2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

(b) The county payment to the community mental health center shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

- (1) One-half (1/2) of the county payment to the community

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1 mental health center shall be made on the second Monday in
2 July.

3 (2) One-half (1/2) of the county payment to the community
4 mental health center shall be made on the second Monday in
5 December.

6 (c) A county making a payment under this subsection or from
7 other county sources to a community mental health center that
8 qualifies as a community mental health center disproportionate
9 share provider under IC 12-15-16-1 shall certify that the payment
10 represents expenditures eligible for financial participation under
11 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist
12 a county in making this certification.

13 (d) Payments by the county fiscal body:

14 (1) must be in the amounts:

15 (A) determined by section 1.6 of this chapter and sections
16 2 through 5 of this chapter; and

17 (B) authorized by sections 1.5, 1.9, and 13 of this chapter;
18 and

19 (2) are in place of grants from agencies supported within the
20 county solely by county tax money.

21 SECTION 23. IC 35-36-3-1, AS AMENDED BY P.L.215-2001,
22 SECTION 109, IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If at any time before the final
24 submission of any criminal case to the court or the jury trying the case,
25 the court has reasonable grounds for believing that the defendant lacks
26 the ability to understand the proceedings and assist in the preparation
27 of his a defense, the court shall immediately fix a time for a hearing to
28 determine whether the defendant has that ability. The court shall
29 appoint two (2) or three (3) competent, disinterested:

30 (1) psychiatrists; or

31 (2) psychologists endorsed by the Indiana state board of
32 examiners in psychology as health service providers in
33 psychology. ~~or physicians;~~

34 At least one (1) of ~~whom~~ the individuals appointed under this
35 subsection must be a psychiatrist. ~~who~~ However, neither may be an
36 employee or a contractor of a state institution (as defined in
37 IC 12-7-2-184). The individuals who are appointed shall examine
38 the defendant and testify at the hearing as to whether the defendant can
39 understand the proceedings and assist in the preparation of the
40 defendant's defense.

41 (b) At the hearing, other evidence relevant to whether the defendant
42 has the ability to understand the proceedings and assist in the

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1 preparation of the defendant's defense may be introduced. If the court
 2 finds that the defendant has the ability to understand the proceedings
 3 and assist in the preparation of the defendant's defense, the trial shall
 4 proceed. If the court finds that the defendant lacks this ability, it shall
 5 delay or continue the trial and order the defendant committed to the
 6 division of mental health and addiction. ~~to be confined by the division~~
 7 ~~in an appropriate psychiatric institution.~~ **The division of mental health**
 8 **and addiction shall provide competency restoration services or**
 9 **enter into a contract for the provision of competency restoration**
 10 **services by a third party in the:**

11 (1) location where the defendant currently resides; or

12 (2) least restrictive setting appropriate to the needs of the
 13 defendant and the safety of the defendant and others.

14 However, if the defendant is serving an unrelated executed
 15 sentence in the department of correction at the time the defendant
 16 is committed to the division of mental health and addiction under
 17 this section, the division of mental health and addiction shall
 18 provide competency restoration services or enter into a contract
 19 for the provision of competency restoration services by a third
 20 party at a department of correction facility agreed upon by the
 21 division of mental health and addiction or the third party
 22 contractor and the department of correction.

23 SECTION 24. IC 35-36-3-2, AS AMENDED BY P.L.215-2001,
 24 SECTION 110, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2004]: Sec. 2. Whenever the defendant attains
 26 the ability to understand the proceedings and assist in the preparation
 27 of the defendant's defense:

28 (1) the division of mental health and addiction, through the
 29 superintendent of the appropriate psychiatric institution,
 30 superintendent of the state institution (as defined in
 31 IC 12-7-2-184); or

32 (2) if the division of mental health and addiction entered into
 33 a contract for the provision of competency restoration
 34 services, the director or medical director of the third party
 35 contractor;

36 shall certify that fact to the proper court, which shall enter an order
 37 directing the sheriff to return the defendant. The court ~~may~~ **shall** enter
 38 such an order immediately after being sufficiently advised of the
 39 defendant's attainment of the ability to understand the proceedings and
 40 assist in the preparation of the defendant's defense. Upon the return to
 41 court of any defendant committed under section 1 of this chapter, the
 42 court shall hold the trial as if no delay or postponement had occurred.

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SECTION 25. IC 35-36-3-3, AS AMENDED BY P.L.215-2001,
SECTION 111, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Within ninety (90) days after:

(1) a defendant's ~~admittance to a psychiatric institution;~~ the
superintendent of the ~~psychiatric institution~~ admission to a state
institution (as defined in IC 12-7-2-184); or

(2) the initiation of competency restoration services to a
defendant by a third party contractor;

the superintendent of the state institution (as defined in
IC 12-7-2-184) or the director or medical director of the third
party contractor, if the division of mental health and addiction has
entered into a contract for the provision of competency restoration
services by a third party, shall certify to the proper court whether the
defendant has a substantial probability of attaining the ability to
understand the proceedings and assist in the preparation of the
defendant's defense within the foreseeable future.

(b) If a substantial probability does not exist, the ~~division of mental
health and addiction~~ state institution (as defined in IC 12-7-2-184)
or the third party contractor shall initiate regular commitment
proceedings under IC 12-26. If a substantial probability does exist, the
~~division of mental health and addiction~~ state institution (as defined
in IC 12-7-2-184) or third party contractor shall retain the
defendant:

(1) until the defendant attains the ability to understand the
proceedings and assist in the preparation of the defendant's
defense and is returned to the proper court for trial; or

(2) for six (6) months from the date of the:

(A) defendant's ~~admittance~~ admission to a state institution
(as defined in IC 12-7-2-184); or

(B) initiation of competency restoration services by a third
party contractor;

whichever first occurs.

SECTION 26. IC 35-36-3-4, AS AMENDED BY P.L.215-2001,
SECTION 112, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2004]: Sec. 4. If a defendant who was found
under section 3 of this chapter to have had a substantial probability of
attaining the ability to understand the proceedings and assist in the
preparation of the defendant's defense has not attained that ability
within six (6) months after the date of the:

(1) defendant's ~~admittance to a psychiatric institution;~~ the division
of mental health and addiction admission to a state institution
(as defined in IC 12-7-2-184); or

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(2) initiation of competency restoration services by a third party contractor; the state institution (as defined in IC 12-7-2-184) or the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall institute regular commitment proceedings under IC 12-26.

SECTION 27. [EFFECTIVE UPON PASSAGE] (a) IC 12-29-1 and IC 12-29-2, as amended by this act, apply to property taxes first due and payable after December 31, 2003.

(b) For property taxes first due and payable in 2004, subject to subsections (c) and (d), the department of local government finance shall make the changes under IC 6-1.1-17-16 that are needed to account for the changes in tax rates that result from IC 6-1.1-18-12, as amended by this act. The requirements of IC 6-1.1-17-16(c), IC 6-1.1-17-16(d), and IC 6-1.1-17-16(h) do not apply to an action under this SECTION. The department of local government finance shall certify the results of the changes made under this SECTION in the manner provided in IC 6-1.1-17-16(f).

(c) If the department of local government finance determines that compliance with this act would cause an unreasonable delay in the certification of budgets, tax rates, and tax levies in a county, the department of local government finance may certify budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed. However, if the department of local government finance takes this action, the following apply:

(1) If this act provides a greater appropriation and levy for a county than would have been provided under the previously enacted law, the affected county and the department of local government finance shall provide for an additional shortfall property tax levy and an additional budgeted amount in 2005 to replace the revenue lost in 2004 to community mental health centers as a result of certifying budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed.

(2) If this act provides a smaller appropriation and levy for a county than would have been provided under the previously enacted law, the department of local government finance shall issue a supplemental order that reduces the amount of the county's 2004 budget to reflect this act and order that any excess levy collected from property taxes first due and

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1 payable in 2004 be placed in the county's levy excess fund
2 established under IC 6-1.1-18.5-17 for the purpose of reducing
3 property taxes in the subsequent year.

4 (d) The amount of a shortfall levy under subsection (c)(1) shall
5 be treated as an addition to the amount allowed in 2005 under
6 IC 12-29-2, as amended by this act. The ad valorem property tax
7 levy limits imposed by IC 12-29-2, as amended by this act, do not
8 apply to ad valorem property taxes imposed under subsection
9 (c)(1). For purposes of computing the ad valorem property tax levy
10 limit imposed under IC 12-29-2, as amended by this act, for
11 property taxes first due and payable after 2005, the ad valorem
12 property tax levy imposed under IC 12-29-2, as added by this act,
13 does not include that part of the levy imposed under subsection
14 (c)(1).

15 SECTION 28. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1296, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1296 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 24, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1296 be amended to read as follows:

Page 2, delete lines 4 through 42, begin a new line block indented and insert:

- "(4) IC 12-29-1-1;
- (5) IC 12-29-1-2;
- (6) IC 12-29-1-3;
- ~~(7) IC 12-29-2-13;~~
- (7) IC 12-29-2-1.9;**
- (8) IC 12-29-3-6;
- (9) IC 13-21-3-12;
- (10) IC 13-21-3-15;
- (11) IC 14-27-6-30;
- (12) IC 14-33-7-3;
- (13) IC 14-33-21-5;
- (14) IC 15-1-6-2;
- (15) IC 15-1-8-1;
- (16) IC 15-1-8-2;
- (17) IC 16-20-2-18;
- (18) IC 16-20-4-27;
- (19) IC 16-20-7-2;
- (20) IC 16-23-1-29;
- (21) IC 16-23-3-6;
- (22) IC 16-23-4-2;
- (23) IC 16-23-5-6;
- (24) IC 16-23-7-2;
- (25) IC 16-23-8-2;
- (26) IC 16-23-9-2;
- (27) IC 16-41-15-5;
- (28) IC 16-41-33-4;
- (29) IC 20-5-17.5-2;
- (30) IC 20-5-17.5-3;
- (31) IC 20-5-37-4;
- (32) IC 20-14-7-5.1;
- (33) IC 20-14-7-6;
- (34) IC 20-14-13-12;
- (35) IC 21-1-11-3;
- (36) IC 21-2-17-2;
- (37) IC 23-13-17-1;
- (38) IC 23-14-66-2;
- (39) IC 23-14-67-3;

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- (40) IC 36-7-13-4;
- (41) IC 36-7-14-28;
- (42) IC 36-7-15.1-16;
- (43) IC 36-8-19-8.5;
- (44) IC 36-9-6.1-2;
- (45) IC 36-9-17.5-4;
- (46) IC 36-9-27-73;
- (47) IC 36-9-29-31;
- (48) IC 36-9-29.1-15;
- (49) IC 36-10-6-2;
- (50) IC 36-10-7-7;
- (51) IC 36-10-7-8;
- (52) IC 36-10-7.5-19; and
- (53) any statute enacted after December 31, 2003, that:

(A) establishes a maximum rate for any part of the:

- (i) property taxes; or
- (ii) special benefits taxes;

imposed by a political subdivision; and

(B) does not exempt the maximum rate from the adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed

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in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 2. IC 6-1.1-18.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 10. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit to be used to fund:

(1) community mental health centers under ~~IC 12-29-2-1~~ IC 12-29-2-1.6, IC 12-29-2-13, and IC 12-29-2-2 through IC 12-29-2-6; or

(2) community mental retardation and other developmental disabilities centers under IC 12-29-1-1;

to the extent that those property taxes are attributable to any increase in the assessed value of the civil taxing unit's taxable property caused by a general reassessment of real property that took effect after February 28, 1979.

(b) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).

SECTION 3. IC 12-29-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to ~~the following:~~

~~(1) A community mental health center that is located or will be located in the county.~~

~~(2) a community mental retardation and other developmental disabilities center that is located or will be located in the county.~~

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.



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(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 4. IC 12-29-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 2. (a) If ~~a community mental health center~~ or a community mental retardation and other developmental disabilities center is organized to provide services to at least two (2) counties, the county executive of each county may authorize the furnishing of financial assistance for the purposes described in section 1(b) of this chapter.

(b) Upon the request of the county executive of the county, the county fiscal body of each county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriation of each county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 5. IC 12-29-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 3. (a) The county executive of each county whose residents may receive services from ~~a community mental health center~~ or a community mental retardation and other developmental disabilities center may authorize the furnishing of a share of financial assistance for the purposes described in section 1(b) of this chapter if the following conditions are met:

- (1) The facilities for the center are located in a state adjacent to Indiana.
- (2) The center is organized to provide services to Indiana residents.

(b) Upon the request of the county executive of a county, the county fiscal body of the county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriations of the county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 6. IC 12-29-1-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
 Sec. 4. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house ~~the following:~~

~~(1) A community mental health center;~~

~~(2) a community mental retardation and other developmental disabilities center.~~

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 7. IC 12-29-1-7, AS AMENDED BY P.L.215-2001, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

~~(1) the division of mental health and addiction; for a community mental health center;~~

~~(2) (1) the division of disability, aging, and rehabilitative services, for a community mental retardation and other developmental disabilities center; and~~

~~(3) (2) the president of the board of directors of each center;~~

the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

~~A county making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.~~

(c) Payments by the county fiscal body

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(1) must be in the amounts:

(A) determined by IC 12-29-2-1 through IC 12-29-2-6; and

(B) authorized by section 1 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 8. IC 12-29-2-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance to a community mental health center that is located or will be located:**

(1) in the county;

(2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or

(3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a community mental health center.

(2) Operating a community mental health center.

SECTION 9. IC 12-29-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 1.5. (a) This section applies to a county other than Marion County.**

(b) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1.2(b) of this chapter. If a community mental health center is organized to serve more than one (1) county, upon request of the county executive each county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1.2(b) of this chapter.

(c) The appropriation from a county other than Marion County under subsection (b) may not exceed the following:

(1) For 2004, the amount that would have been raised by an annual tax rate of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county in 2002.

(2) For 2005 and each year thereafter, the result equal to:

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(A) the maximum amount determined under this section for the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the product of seven tenths (0.7) multiplied by the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

SECTION 10. IC 12-29-2-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 1.6. (a) This section applies to a county other than Marion County.**

(b) A county shall fund the operation of community mental health centers in the amount determined under subsection (c) unless a lower tax rate will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

(c) The amount to be used in subsection (b) is the following:

(1) For 2004, the amount that would have been raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county in 2002.

(2) For 2005 and each year thereafter, the result equal to:

(A) the maximum amount determined under this section for the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the product of seven tenths (0.7) multiplied by the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

SECTION 11. IC 12-29-2-1.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 1.9. (a) This section applies only to Marion County.**

(b) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described

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in section 1.2(b) of this chapter. If a community mental health center is organized to serve more than one (1) county, upon request of the county executive each county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1.2(b) of this chapter.

(c) The appropriation from Marion County under subsection (b) may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 12. IC 12-29-2-2, AS AMENDED BY P.L.1-2004, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) **This section applies only to Marion County.**

(b) Subject to ~~subsections (b),~~ **subsection (c), and (d),** a county shall fund the operation of community mental health centers in an amount not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county, unless a lower tax rate will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

- (1) If the total population of the county is served by one (1) center.
- (2) If the total population of the county is served by more than one (1) center.
- (3) If the partial population of the county is served by one (1) center.
- (4) If the partial population of the county is served by more than one (1) center.

~~(b) This subsection applies only to a property tax that is imposed in a county containing a consolidated city.~~ (c) The tax rate permitted under subsection ~~(a)~~ (b) for taxes first due and payable after 1995 is the tax rate permitted under subsection ~~(a)~~ (b) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.



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STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.

(c) With respect to a county to which subsection (b) does not apply, the maximum tax rate permitted under subsection (a) for taxes first due and payable in calendar year 2004 and calendar year 2005 is the maximum tax rate that would have been determined under subsection (d) for taxes first due and payable in 2003 if subsection (d) had applied to the county for taxes first due and payable in 2003.

(d) This subsection applies only to a county to which subsection (b) does not apply. The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 2005 is the tax rate permitted under subsection (c) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as

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follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined under STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed under STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0);

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.

SECTION 13. IC 12-29-2-3, AS AMENDED BY P.L.79-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3. In situations described in section ~~2(a)(1)~~ **1.6(b)(1)**, **1.6(b)(3)**, **2(b)(1)**, or ~~2(a)(3)~~ **2(b)(3)** of this chapter, the county's maximum appropriation for part of the total operating budget of the center is determined as follows:

STEP ONE: Divide the total county population by the population of the county residing in the primary service area of the community mental health center that is certified by the division of mental health and addiction to serve the county.

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STEP TWO: Multiply the amount determined in STEP ONE by the total operating budget of the center after the operating budget of the center is reduced by the following anticipated amounts:

- (A) Gifts, except bequests.
- (B) Merchandise.
- (C) Fees.
- (D) Federal grants for direct service, except research and demonstration grants.

SECTION 14. IC 12-29-2-4, AS AMENDED BY P.L.79-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 4. (a) Except as provided in subsection (b), in situations described in section ~~2(a)(2)~~ **1.6(b)(2)**, **1.6(b)(4)**, **2(b)(2)**, or ~~2(a)(4)~~ **2(b)(4)** of this chapter, the county's maximum appropriation for part of the total operating budget of the centers is determined in the same manner as in situations described in section ~~2(a)(1)~~ **1.6(b)(1)**, **1.6(b)(3)**, **2(b)(1)**, or ~~2(a)(3)~~ **2(b)(3)** of this chapter.

(b) The amount derived from the calculation under subsection (a) represents the combined maximum appropriation to all centers serving the particular county. Except for ~~a~~ **Marion** County, ~~containing a consolidated city,~~ the allotment to each center shall be determined in the following manner:

- (1) To determine the allotment to each center serving the total population of the county under the situation described in section ~~2(a)(2)~~ **1.6(b)(2) or 2(b)(2)** of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the total population of the county.
- (2) To determine the allotment to each center in the situation described in section ~~2(a)(4)~~ **1.6(b)(4) or 2(b)(4)** of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the population of the county served by all centers.

SECTION 15. IC 12-29-2-5, AS AMENDED BY P.L.1-2004, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 5. (a) The maximum appropriation determined under section 3 or 4 of this chapter represents the county's absolute proportional share of each center's total operating

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budget.

(b) If the proportional share is less than the amount of property taxes raised under the tax rate required under section **1.6 or 2** of this chapter, the county shall appropriate only the maximum appropriation amount.

(c) If the proportional share is more than the amount of property taxes raised under the tax rate required under section **1.6 or 2** of this chapter, the county

~~(1) shall appropriate that amount and~~

~~(2) may appropriate an additional amount up to an amount that would equal the amount of property taxes raised by a tax rate of three and one-third cents (\$0.03 1/3);~~ **allowed under section 1.5 or 1.9 of this chapter for that county.**

SECTION 16. IC 12-29-2-13, AS AMENDED BY P.L.215-2001, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 13. (a) This section applies to ~~a Lake County. having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).~~

(b) In addition to any other appropriation under this article, a county annually may fund each center serving the county from the county's general fund in an amount not exceeding the **following:**

(1) For 2004, the amount that would be raised by a tax rate of one cent (\$0.01) on each one hundred dollars (\$100) of taxable property within the county **in 2002.**

(2) For 2005 and each year thereafter, the result equal to:

(A) the maximum amount determined under this section for the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the product of seven tenths (0.7) multiplied by the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health and addiction.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health and addiction for a

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community mental health center.

SECTION 17. IC 12-29-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 17. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house a community mental health center.**

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 18. IC 12-29-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 18. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:**

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of taxpayers to remonstrate against the issuance of bonds.

SECTION 19. IC 12-29-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 19. If bonds are issued under this chapter:**

(1) the building that is constructed, equipped, or improved with proceeds of the bonds is:

(A) the property of the county issuing the bonds; or

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(B) the joint property of the counties involved, if the bonds are issued by at least two (2) counties; and

(2) the tax limitations in this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

SECTION 20. IC 12-29-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 20. (a) On the first Monday in October, the county auditor shall certify to:**

(1) the division of mental health and addiction, for a community mental health center; and

(2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

(b) The county payment to the community mental health center shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in December.

(c) A county making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

(d) Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by section 1.6 of this chapter and sections 2 through 5 of this chapter; and

(B) authorized by sections 1.5, 1.9, and 13 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 21. IC 12-29-2-6 IS REPEALED [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:".

Delete page 3.

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Page 4, delete lines 1 through 12.

Page 4, line 13, after "PASSAGE]" insert "(a) IC 12-29-1 and IC 12-29-2, as amended by this act, apply to property taxes first due and payable after December 31, 2003.

(b)".

Page 4, line 14, after "2004," insert "**subject to subsections (c) and (d),**".

Page 4, between lines 21 and 22, begin a new paragraph and insert:

(c) If the department of local government finance determines that compliance with this act would cause an unreasonable delay in the certification of budgets, tax rates, and tax levies in a county, the department of local government finance may certify budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed. However, if the department of local government finance takes this action, the following apply:

(1) If this act provides a greater appropriation and levy for a county than would have been provided under the previously enacted law, the affected county and the department of local government finance shall provide for an additional shortfall property tax levy and an additional budgeted amount in 2005 to replace the revenue lost in 2004 to community mental health centers as a result of certifying budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed.

(2) If this act provides a smaller appropriation and levy for a county than would have been provided under the previously enacted law, the department of local government finance shall issue a supplemental order that reduces the amount of the county's 2004 budget to reflect this act and order that any excess levy collected from property taxes first due and payable in 2004 be placed in the county's levy excess fund established under IC 6-1.1-18.5-17 for the purpose of reducing property taxes in the subsequent year.

(d) The amount of a shortfall levy under subsection (c)(1) shall be treated as an addition to the amount allowed in 2005 under IC 12-29-2, as amended by this act. The ad valorem property tax levy limits imposed by IC 12-29-2, as amended by this act, do not apply to ad valorem property taxes imposed under subsection (c)(1). For purposes of computing the ad valorem property tax levy limit imposed under IC 12-29-2, as amended by this act, for property taxes first due and payable after 2005, the ad valorem

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property tax levy imposed under IC 12-29-2, as added by this act, does not include that part of the levy imposed under subsection (c)(1)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1296 as printed February 2, 2004.)

KLINKER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1296 be amended to read as follows:

Page 4, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 2. IC 12-26-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) This section does not apply to the commitment of an individual if the individual has previously been committed under IC 12-26-6.

(b) A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness may be begun by filing with a court having jurisdiction a written petition by any of the following:

- (1) A health officer.
- (2) A police officer.
- (3) A friend of the individual.
- (4) A relative of the individual.
- (5) The spouse of the individual.
- (6) A guardian of the individual.
- (7) The superintendent of a facility where the individual is present.
- (8) A prosecuting attorney in accordance with IC 35-36-2-4.
- (9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.

(10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.

SECTION 3. IC 35-36-3-1, AS AMENDED BY P.L.215-2001, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks

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the ability to understand the proceedings and assist in the preparation of ~~his~~ a defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested:

- (1) psychiatrists; or
- (2) psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology. ~~or physicians;~~

At least one (1) of ~~whom~~ **the individuals appointed under this subsection** must be a psychiatrist. ~~who~~ **However, neither may be an employee or a contractor of a state institution (as defined in IC 12-7-2-184). The individuals who are appointed** shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of mental health and addiction. ~~to be confined by the division in an appropriate psychiatric institution.~~ **The division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party in the:**

- (1) location where the defendant currently resides; or
- (2) least restrictive setting appropriate to the needs of the defendant and the safety of the defendant and others.

However, if the defendant is serving an unrelated executed sentence in the department of correction at the time the defendant is committed to the division of mental health and addiction under this section, the division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party at a department of correction facility agreed upon by the division of mental health and addiction or the third party contractor and the department of correction.

SECTION 4. IC 35-36-3-2, AS AMENDED BY P.L.215-2001, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Whenever the defendant attains

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the ability to understand the proceedings and assist in the preparation of the defendant's defense:

- (1) ~~the division of mental health and addiction, through the superintendent of the appropriate psychiatric institution,~~ **superintendent of the state institution (as defined in IC 12-7-2-184); or**
- (2) **if the division of mental health and addiction entered into a contract for the provision of competency restoration services, the director or medical director of the third party contractor;**

shall certify that fact to the proper court, which shall enter an order directing the sheriff to return the defendant. The court ~~may~~ **shall** enter such an order immediately after being sufficiently advised of the defendant's attainment of the ability to understand the proceedings and assist in the preparation of the defendant's defense. Upon the return to court of any defendant committed under section 1 of this chapter, the court shall hold the trial as if no delay or postponement had occurred.

SECTION 5. IC 35-36-3-3, AS AMENDED BY P.L.215-2001, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Within ninety (90) days after:

- (1) ~~a defendant's admittance to a psychiatric institution, the superintendent of the psychiatric institution~~ **admission to a state institution (as defined in IC 12-7-2-184); or**
- (2) **the initiation of competency restoration services to a defendant by a third party contractor;**

the superintendent of the state institution (as defined in IC 12-7-2-184) or the director or medical director of the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall certify to the proper court whether the defendant has a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense within the foreseeable future.

(b) If a substantial probability does not exist, ~~the division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or the third party contractor** shall initiate regular commitment proceedings under IC 12-26. If a substantial probability does exist, ~~the division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or third party contractor** shall retain the defendant:

- (1) until the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's

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defense and is returned to the proper court for trial; or

(2) for six (6) months from the date of the:

(A) defendant's ~~admittance~~ admission to a state institution (as defined in IC 12-7-2-184); or

(B) initiation of competency restoration services by a third party contractor;

whichever first occurs.

SECTION 6. IC 35-36-3-4, AS AMENDED BY P.L.215-2001, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. If a defendant who was found under section 3 of this chapter to have had a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense has not attained that ability within six (6) months after the date of the:

(1) defendant's ~~admittance to a psychiatric institution; the division of mental health and addiction~~ admission to a state institution (as defined in IC 12-7-2-184); or

(2) initiation of competency restoration services by a third party contractor;

the state institution (as defined in IC 12-7-2-184) or the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall institute regular commitment proceedings under IC 12-26."

Renumber all SECTIONS consecutively.

(Reference is to HB 1296 as printed February 2, 2004.)

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